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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/792,092

03/04/2004

Toni Paila

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4087

32294 7590 05/15/2008  
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EXAMINER

CEHIC, KENAN

ART UNIT

PAPER NUMBER

2616

MAIL DATE

DELIVERY MODE

05/15/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No.	Applicant(s)	
	10/792,092	PAILA ET AL.	
	Examiner	Art Unit	
	KENAN CEHIC	2616	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 24 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1-16.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/Kwang B. Yao/  
Supervisory Patent Examiner, Art Unit 2616

Continuation of 3. NOTE: The scope of claim 1 has been changed when compared to previously presented claims. For claim 1 "second multicast tree for control messages" changes the scope.

Continuation of 11. does NOT place the application in condition for allowance because: Response to finality: On page 8 and 9, the applicant alleges that the finality of the action is improper. The applicant argues that the office action failed to address the applicant's arguments. The examiner disagrees. On pages 11 through 13 2nd paragraph of the response filed on 11/26/2007, the applicant merely summarizes the claims, the Farinacci reference and merely recites a portion of claim 1 and 13. Further on page 13 2nd paragraph the applicant provides a mere conclusionary statement without any specificity that Farinacci "fails to disclose or suggest every feature". The only point of contention that applicant brought up with some specificity is that "a single multicast tree is used for transmitting multicast packets and for controlling messages" on page 13 3rd paragraph. Since applicant did not expand further on the explanation, it was not clear what exact point the applicant was trying to arguing. It was assumed that the applicant was trying to argue that "first multicast tree" and "second multicast tree" are different and that the distinction "first" and "second" are limiting the claim to two different multicast trees. This argument was clearly addressed on page 18 of the Action mailed on 02/20/2008. To reiterate, the claims 1 and 13 do not make a distinction that the "first multicast tree" and "second multicast tree" are different. Thus the applicant is seemingly arguing a feature that is not recited in the claims. On pages 14-16 of the response filed on 11/26/2007, the applicant argues the same points as used for claims 1 and 13. Again this argument was addressed on page 18 of the Action mailed 02/20/2008. Furthermore, the applicant change the scope of the claims and those amended claims were addressed in paragraphs 3-6 of the Action mailed on 02/20/2006.

Response to Arguments regarding prior art rejection: On page 14 and 15, the applicant argues that Farinacci et al only discloses a single multicast tree. Even if this was true, Claim 1 and similarly claim 13 states "first multicast tree.....second multicast tree"; the claim does not differentiate that the first and second multicast are different. Thus the claim language does not exclude the situation where the first and the second multicast tree are the same. However, Farinacci discloses numerous times multiple multicast trees (see section 0140 "multiple distinct trees", section 0276 "SGM delivery trees...may be different" and section 0279-0280 "multiple groups....delivery trees"; section 0311 "sub-trees"; figure Fig 2b 210A-C and section 0062 "210A, 210B, 210C....list describing the delivery tree" etc.) On page 15, applicant further argues that multicast controllers at cell level are not disclosed. The applicant uses the specification to support the argument, however applicant is reminded that limitation from the specification are not read into the claim. Additionally an explicit definition of "multicast controller at cell level" was not established and claims are to be given the broadest reasonable interpretation. "Cell" is merely "a small group acting as a unit within a larger organization" (cell. (n.d.). Dictionary.com Unabridged (v 1.1)). Thus looking at fig 1 and 10 of Farrinacci we have multiple routers (that exercise control such as routing etc) at different levels of a larger network.

On page 16, applicant argues that Chang et al does not discloses notifying recipients aware that a multicast is available. The examiner disagrees. Cheng et al discloses in section 0009 that users receive multicast messages, as matching to their profile; The reception of multicast messages is a notification by itself that the multicast is available for those users.

On page 17 and 18 applicant argues that "ACK" nor "multicast discovery requests" are equivalent to "control message". The applicant uses the specification to support the argument, however applicant is reminded that limitation from the specification are not read into the claim. Furthermore, claims are given their broadest reasonable interpretation. The applicant quotes a passage of Dean et al which states "has received an ACK for the advertisement, it will ignore further multicast discovery requests". This statement by itself supports the Examiners assertion of ACK being a control message. The ACK, controls the behavior / what the client will do. Thus it is a control message. The definition of control is "to exercise restraint or direction over; dominate; command" (control. (n.d.). Dictionary.com Unabridged (v 1.1). )